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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,727	10/27/2003	Michel Bunodiére	0584-1011	9707

466 7590 08/10/2006

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EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,727

Applicant(s)

BUNODIERE ET AL.

Examiner

Matthew F. DeSanto

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/22/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The drawings were received on 5/13/04. These drawings are accepted.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Tallarida et al. (USPN 6,527,754).

Tallarida et al. discloses an implantable chamber for the infusion of a medicament, which chamber is to be implanted subcutaneously by way of an incision in a body, of the type which comprises: a medicament reservoir, a region for access to the reservoir, which region is located at a vertex of the reservoir, is accessible from outside the body and is to enable the medicament reservoir to be filled, and a diffusion duct which is connected to the reservoir and which extends outside the latter, the diffusion duct having an external terminal portion, characterized in that: it comprises an outer casing surrounding the reservoir and having a base wall and an outer lateral wall extending from the base wall to the top of the reservoir, the contour of the base wall is substantially triangular and is

such that the casing has a shape tapered towards a vertex of the triangle, the portion of the diffusion duct closest to the reservoir is surrounded by the casing, and the terminal portion of the diffusion duct, which portion is located outside the casing, extends in a direction substantially parallel with the side of the triangle opposite the tapered vertex (see figure 2A-2E and entire reference).

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Moriuchi (USPN 5,084,015).

Moriuchi discloses an implantable chamber for the infusion of a medicament, which chamber is to be implanted subcutaneously by way of an incision in a body, of the type which comprises: a medicament reservoir, a region for access to the reservoir, which region is located at a vertex of the reservoir, is accessible from outside the body and is to enable the medicament reservoir to be filled, and a diffusion duct which is connected to the reservoir and which extends outside the latter, the diffusion duct having an external terminal portion, characterized in that: it comprises an outer casing surrounding the reservoir and having a base wall and an outer lateral wall extending from the base wall to the top of the reservoir, the contour of the base wall is substantially triangular and is such that the casing has a shape tapered towards a vertex of the triangle, the portion of the diffusion duct closest to the reservoir is surrounded by the casing, and the terminal portion of the diffusion duct, which portion is located outside the casing, extends in a direction substantially parallel with the side of the triangle opposite the tapered vertex (see figures 6 and entire reference).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Matthew DeSanto
Art Unit 3763
August 7, 2006